

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL MCCURTY,
Plaintiff,

v.

B. AGUIRRE, et al.,
Defendants.

Case No. [19-cv-03090-YGR](#) (PR)

**ORDER GRANTING IN PART
DEFENDANTS' MOTION FOR
SECOND EXTENSION OF TIME TO
FILE A DISPOSITIVE MOTION**

Pursuant to Civil Local Rules 6-3 and 7-11, Defendants filed a request for a second extension of time to file a dispositive motion, primarily because of limitations on defense counsel's ability to take depositions of Plaintiff and the eyewitnesses due to the movement restrictions by the California Department of Corrections and Rehabilitation (CDCR) during the COVID-19 pandemic. At this time, Defendants claim that the Correctional Training Facility ("CTF"), which is the institution where Plaintiff and the eyewitnesses are incarcerated, has not yet been approved to conduct video depositions. Thus, Defendants request for what seems to be an indefinite extension of time to file a dispositive motion, i.e., sixty days from when CTF is approved to conduct video depositions. And that date is unknown because the CDCR has not yet indicated when CTF will be approved as being able to safely conduct video proceedings.

Having read and considered Defendants' motion and the accompanying declaration of counsel, and for good cause appearing, the motion is GRANTED in part.

The Court finds that an extension of time to an *indefinite* date (i.e., based on when CTF is approved to conduct video depositions) is unwarranted. However, the Court will allow a second extension of time to a specific date. Thus, the dispositive motion is due on or before **November 30, 2020**.

This is Defendants' second extension of time request due to the extraordinary circumstances of the pandemic. The Court is aware that certain institutions are allowing inmates access to video-conference equipment. However, absent a sworn affidavit based upon personal knowledge of a qualified individual making a showing that Plaintiff's particular institution will not

1 allow access to such equipment prior to November 30, 2020, as well as a sworn affidavit from
2 defense counsel detailing his or her diligent efforts to obtain such access, **no further extensions**
3 **of time will be granted.**

4 Plaintiff shall file and serve his opposition **twenty-eight (28) days** from the date the motion
5 is filed. Defendants shall file and serve their reply **fourteen (14) days** from the date Plaintiff's
6 opposition is filed. Absent further order, the motion will be submitted on the date the reply is due,
7 without a hearing.

8 This Order terminates Docket No. 16.

9 IT IS SO ORDERED.

10 Dated: October 6, 2020

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12 YVONNE GONZALEZ ROGERS
13 United States District Judge
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